IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Writ Petition No.2549 of 2006

Prashant D.Mahajan — Petitioner
Vs.
The Kalyan Janata Sahakari Bank Ltd. & anr. — Respondents

Mr.R.A.Thorat with Mr.S.M.Kazi for petitioner.
Mr.Prashant Naik for Resp.No.1.
Mr.A.H.Palekar, AGP for Resp.No.2.

CORAM: B.H.MARLAPALLE,J.

June 05, 2006.

P.C.

. Heard Mr.Thorat with Mr.Kazi, the learned counsel for the petitioner.

. The Co-operative Court at Mumbai had passed an award on 9/7/2002 for recovery against the petitioner and instead of challenging the award by way of an appeal before the Co-operative Appellate Court, he filed Writ Petition No.8066 of 2003. The said petition came to be rejected summarily by this Court on 22/11/2005 on the ground that when a statutory appellate remedy was available, writ petition under Article 227 of the Constitution would not be maintainable. The petitioner, therefore, approached the Maharashtra State Co-operative Appellate Court at Mumbai by way of an appeal and as the appeal was

beyond time, he filed Misc. Application No.127 of 2005 for condonation of delay. The learned President of the Appellate Court, after hearing both the parties, was pleased to allow the application for condonation of delay but on the condition that the petitioner deposits an amount of Rs.1 crore with the respondent-Bank by the end of 31st March 2006, failing which the misc. application would automatically lead to rejection. This order was passed on 28th February 2006 in favour of the petitioner and still he has impugned the same in the instant petition on the ground that the condition of deposit of Rs.1 crore is illegal.

. Undoubtedly the respondent is a Co-operative Bank and the award of the Co-operative Court impugned before the Appellate Court is for recovery of about Rs.10 (ten) crores and thus the impugned order directs to deposit just about 10 per cent of the award amount. While exercising the discretion to condone the delay in filing the appeal, the learned President of the Co-operative Appellate Court has directed to deposit Rs.1 crore in his view and, therefore, the said view cannot be termed to be illegal or without power so as to call for

interference under Article 227 of the Constitution.

. The order impugned does not call for any interference and hence the petition is rejected summarily.

(B.H.MARLAPALLE,J.)